

**REMARKS**

The Office Action mailed April 28, 2009, has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

**Record of Interview**

On June 16, 2009, an interview was conducted by telephone between Examiner Chan and the undersigned. The Applicant thanks the Examiner for granting this interview. The details of the interview are set forth in the Interview Summary document made of record.

**Claim Status and Amendment of the Claims**

Claims 1-2, 5-12, 15-21, 24-29, 31-39, and 41 are currently pending.

No claims stand allowed.

Claims 3-4, 13-14, and 22-23 were previously cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 30 and 40 have been cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 1, 11, 20, 31, 32, 36, and 41 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes is found in the specification, figures, and claims as originally filed.

**Objections to the Specification**

The specification stands objected to as allegedly failing to provide proper antecedent basis for claimed subject matter.<sup>1</sup> With this Amendment, Claims 30 and 40 have been cancelled

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<sup>1</sup> Office Action mailed April 28, 2009, at p. 2.

without prejudice or disclaimer of the subject matter contained therein. Accordingly, withdrawal of the objection to the specification is respectfully requested.

#### The 35 U.S.C. § 101 Rejection

Claims 1, 2, 5-10, and 32 stand rejected as allegedly being drawn to nonstatutory subject matter, of which Claims 1 and 32 are independent claims.<sup>2</sup> With this Amendment, Claims 1 and 32 have been amended accordingly. Withdrawal of the 35 U.S.C. § 101 rejection is respectfully requested.

#### The First 35 U.S.C. § 103 Rejection

Claims 1, 2, 5-10, and 30-31 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Meier et al.,<sup>3</sup> in view of Hu et al.,<sup>4</sup> among which claims 1, 30, and 40-41 are independent claims.<sup>5 6</sup> This rejection is respectfully traversed.

According to the M.P.E.P.,

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.<sup>7</sup>

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<sup>2</sup> Office Action at p. 2.

<sup>3</sup> U.S. Publication No. 2005/0185626 to Meier et al.

<sup>4</sup> U.S. Publication No. 2003/0236898 to Hu et al.

<sup>5</sup> Office Action mailed April 28, 2009, at p. 4.

<sup>6</sup> Office Action at p. 3.

<sup>7</sup> M.P.E.P. § 2143.

Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.<sup>8</sup>

#### Claim 1

Claim 1 as presently amended recites:

A computer implemented method comprising:  
at a network access device communicably coupled to a host network, sensing a user device coupled to a port of the network access device;  
determining if the user device supports a user authentication protocol used by the host network, the determining comprising polling the user device for the user authentication protocol, the user authentication protocol comprising a protocol to validate the identity of a user of the user device; and  
placing the port into a semi-authorized access state if it is determined that the user device does not support the user authentication protocol, the semi-authorized access state providing the user device with limited network access.

#### Meier et al. in View of Hu et al. Does Not Disclose Determining If The User Device Supports A User Authentication Protocol

Contrary to the Examiner's statement, Meier et al. in view of Hu et al. does not disclose determining if the user device supports a user authentication protocol as required by Claim 1. In support of the Examiner's statement, the Examiner refers to the following portion of Hu et al.:

[0023] In step 2, after receiving the OPEN message, the message sending side determines whether to support the authentication mechanism and the authentication word according to the OPEN message and its own authentication capability. If yes, the message sending side feedbacks a support message to the message receiving side; otherwise feedbacks a non-support message. In step 3, the message receiving side receives the feedback message by the message sending side, and determine whether the communicating with the message sending side is successful i.e., whether to support content of the communicating, according to the feedback message, if the received message is the support message, it indicates that the communicating is successful, and in step 4, determine BGP message head of the message sent by authentication message sending side according to the

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<sup>8</sup> *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

authentication mechanism and the authentication word, then continue step 5, otherwise the communication fails and sides.<sup>9</sup>

The above portion of Hu et al. cited by the Examiner speaks generally about securing routers based on the Border Gateway Protocol (BGP). The cited portion of Hu et al. says nothing about a user authentication protocol, let alone determining whether a user device *supports* a particular user authentication protocol. The Applicant respectfully submits it is improper to equate BGP with a user authentication protocol. The Applicant also respectfully submits it is improper to equate a router with a user device.

With this Amendment, Claim 1 has been amended to make this distinction more clear. Specifically, Claim 1 has been amended to recite in part “determining if the user device supports a user authentication protocol *used by the host network, the determining comprising polling the user device for the user authentication protocol, the user authentication protocol comprising a protocol to validate the identity of a user of the user device.*” (emphasis added)

For at least the above reasons, the Applicant respectfully submits Claim 1 is allowable over the cited art of record. Withdrawal of the 35 U.S.C. § 103 rejection is respectfully requested.

#### Independent Claim 30

Claim 30 is an *In re Beauregard* claim corresponding to method claim 1. Claim 1 being allowable, Claim 30 must also be allowable for at least the same reasons as for Claim 1.

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<sup>9</sup> Hu et al. at ¶ 23.

Dependent Claims 2 and 5-10

Claims 2 and 5-10 depend from Claim 1. Claim 1 being allowable, Claims 2 and 5-10 must also be allowable for at least the same reasons as for Claim 1.

The Second 35 U.S.C. § 103 Rejection

Claims 32-35 and 40-41 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Hu et al. in view of Meier et al.<sup>10</sup> among which claims 32 and 41 are independent claims.<sup>11 12</sup> This rejection is respectfully traversed.

With this Amendment, Claim 40 has been cancelled without prejudice or disclaimer of the subject matter contained therein, rendering the rejection moot as to Claim 40.

Contrary to the Examiner's statement, Hu et al. in view of Meier et al. does not disclose allowing the user device limited access to a network via the network access device if it is determined that the user device is unable to communicate using a particular user authentication protocol as required by claim 32. The arguments made above regarding Claim 1 apply here as well. Claim 1 being allowable, Claim 32 must also be allowable for at least the same reasons as for Claim 1.

Dependent Claims 33-35

Claims 33-35 depend from Claim 32. Claim 32 being allowable, Claims 33-35 must also be allowable for at least the same reasons as for Claim 32.

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<sup>10</sup> U.S. Publication No. 2003/0236898 to Hu et al.

<sup>11</sup> Office Action mailed April 28, 2009, at p. 4.

<sup>12</sup> Office Action at p. 8.

### The Third 35 U.S.C. § 103 Rejection

Claims 11, 12, 15-19, 20-21, 24-29, and 36-39 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Roose et al.<sup>13</sup> in view of Hu et al., and further in view of Meier et al., among which claims 11, 20, and 36 are independent claims.<sup>14</sup> This rejection is respectfully traversed.

### Improper Omnibus Rejection

As an initial matter, the Applicant submits that the omnibus rejection of Claims 11, 12, 15-19, 20-21, 24-29, and 36-39 under 35 U.S.C. § 103 is improper. The Examiner has grouped 3 independent claims into a single omnibus rejection under 35 U.S.C. § 103. The rejection refers to the term “control logic adapted to determine whether a user device coupled to one of the plurality of input ports supports a user authentication protocol used by a host network.” Claims 11 and 20 refer to “control logic adapted to determine whether a user device coupled to one of the plurality of input ports supports a user authentication protocol used by a host network,” while Claim 36 refers to “control logic configured to allow the user device limited access to a network *if it is determined that the user device is unable to communicate using a particular user authentication protocol*” (emphasis added). The omnibus rejection under 35 U.S.C. § 103 is therefore not equally applicable to all claims in the group and is thus improper.

Turning to the substance of the rejection, according to the Manual of Patent Examining Procedure (M.P.E.P.),

Claim 11 as presently amended recites:

A network access device comprising:  
a plurality of input ports;

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<sup>13</sup> U.S. Publication No. 2003/0217151 to Roose et al.

<sup>14</sup> Office Action at p. 9.

- a plurality of output ports;
- a switching fabric for routing data received on the plurality of input ports to at least one of the plurality of output ports; and
- control logic adapted to determine whether a user device coupled to one of the plurality of input ports supports a user authentication protocol used by a host network, and to place the one of the input ports in a semi-authorized access state if the authentication protocol is not supported, the semi-authorized access state providing the user device with limited network access, the determining comprising polling the user device for the user authentication protocol, the user authentication protocol comprising a protocol to validate the identity of a user of the user device.

Roese et al. in view of Hu et al. and Further in View of Meier et al. Does Not Disclose or Suggest Determining If The User Device Supports A User Authentication Protocol

Contrary to the Examiner's statement, Roese et al. in view of Hu et al. and further in view of Meier et al. does not disclose or suggest control logic adapted to determine whether a user device coupled to one of the plurality of input ports supports a user authentication protocol used by a host network as required by Claim 11. In support of the Examiner's contention, the Examiner refers to the same portion of Hu et al. used in the rejection of Claim 1. Thus, the arguments made above regarding Claim 1 apply here as well. Claim 1 being allowable, Claim 11 must also be allowable for at least the same reasons as for Claim 1.

Independent Claims 20 and 36

Claim 20 is a non-means-plus-function system claim corresponding to non-means-plus-function apparatus claim 11. Claim 36 is a non-means-plus-function apparatus claim corresponding to method Claim 32. Claim 11 being allowable, Claim 20 must also be allowable for at least the same reasons as Claim 11.

Dependent Claims 12, 15-19, 21, 24-29, and 37-39

Claims 12 and 15-19 depend from Claim 11. Claims 21 and 24-29 depend from Claim 20. Claims 37-39 depend from Claim 36. Claims 11, 20, and 36 being allowable, Claims 12, 15-19, 21, 24-29, and 37-39 must also be allowable for at least the same reasons as for Claims 11, 20, and 36.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,

NIXON PEABODY LLP

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